1945.

File No. O. Dis't Pol/45

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Subject:—

Opinions Under the Bombay District Police Act, 1890.

(P) 3/45

File No. O Dis't Pol/45

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Legal Department File O. Dist. Vol./45

Serial No.	R.I./O.No.	Subject	Page
1)	O.No. 2226/20-3-45	B'bay Dist.Police Act 1890--- Whether B.B.C.I.Rly. was crown property in 1941-42	1-5
2)	O.No. 8439/12 11-45	Sec. 39(1)(m) Whether the order regulating the public movement at the Rly. station is legally feasible.	7

SMR 10-7-56
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Office ofthe R.L.A.

It is stated in H.D. office note at p. 7 ante that "the R.L.A. was also of opinion that the B.B.& C.I. Rly., was not then Crown property". This statement is not correct In his opinion No. 7199 dated the 19th October 1944 the R.L.A. did not consider the question whether the B.B.& C.I. Rly. was Crwon Property in 1941-1942 but based his opinion on the assumption that the statement made by the Commissioner in that respect was correct.

2 It is now reported that the B.B.& C.I.Rly. has been state-owned since 1906 but was company managed prior to 1st January 1942. It would therefore follow that if the Commissioner's order of exemption dated the 10th November 1941 is strictly construed the B.B.& C.I.Rly. would be entitled to full exemption from the riot tax onthe ground that the B.B.& C.I. Rly. though company managed was state-owned.

Id./P.N.M. 19/3/45

Remembrancer of Legal Affairs.

U.R. to H.D.No. 2226 dated 20.3.45

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The Collector of Central Excise, Bombay, has requested the D.M., Ahmedabad to issue an order under section39(1)(m) of the Bombay District Police Act regulating the public movement at Viramgam Railway station. The Superintendent of Police, B.B.C.I. who was consulted by the D.M.,Ahmedabad, considers that no such order would be legally feasible for the following reasons:

> It appears that section 1(m) of the Bombay District Police Act is applicable only to places accessible to the public;a station platform or a Rly. limit cannot be said to be a place accessible to the public..... The provisions of the Bombay District Police Act would appear to have no applicability to the Rly. limits in view of the fact that the General Police Act(V of 1861) and the Indian Rlys. Act(IX of 1890) apply for the working of the Rly."

The R.L.S. is requested to advise.

2 In para. 1 of his opinion No. 4993, dated the 29th August 1935 the R.L.A. opined:

> "The Railway Police must be deemed to be enrolled under Act V of 1861, not under the Bombay District Police Act, 1890. Under the Government of India Notification No. 943, dated the 19th October 1917(p.629),Vol.II of General Statutory Rules and Orders) all Railway lands in the Bombay presidency have been formed into a general police district under section 2(1) of the Police Act III of 1888 and a police force directed to be enrolled for that district. Under sub-section (5) of section 2 of the same Act, subject to the orders of the Governor-General in Council the said general police district does not ceases to be part of the Presidency 'for the purposes of any enactment relating to police'. Such an enactment is the Bombay District Police ,Act, 1890".

In the light of this opinion with whichI agree, it is clear that the Bombay District Police Act, 1890, applies to Railway lands within the limits of Viragam Railway Station.

3 Section 39(1)(m) of the Bombay District Police Act empowers the District Magistrate to make rules or orders regulating the move ent of persons, animals, vehicles at such times and such places at which in the opinion of the Magistrate special regulations may be necessary for the public safety and convenience. The word 'places' includes public as well as private places. The scope of section 39(1) is not limited to public places only; see clauses (b),(e),(f) and (j). Consequently there appears no legal objection to the D.M.passing orders under section 39(1)(m) regulating the public movement at Viramgam Railway Station.

Id./P.N.M. 9/11/45

Remembrancer of Legal Affairs.

U.o.r. to H.D.,No. 8439 dated 12th November 1945.

SMR 11-7-56
4 Copies.